

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON

BEVERLY GERACI and GREGORI

GERACI,

Plaintiffs,

v.

AMERICAN MEDICAL SYSTEMS,

INC.,

Defendant.

NO. 2:20-CV-00261-SAB

**JURY TRIAL SCHEDULING
ORDER**

**JURY TRIAL SCHEDULED FOR
OCTOBER 4, 2021**

Recently, the above-captioned case was reassigned to this Court. Prior to this, the jury trial was set for October 4, 2021. ECF No. 69. This Order sets forth additional deadlines that correspond to that trial date.

Accordingly, **IT IS ORDERED:**

PROFESSIONALISM AND COURT-ASSISTED MEDIATION

1. Civility and Professional Conduct. Counsel should review and employ the Washington Rule of Professional Conduct 3.4 (Fairness to Opposing Party and Counsel).

2. Scheduling Order is Binding. Rule 16(f) of the Federal Rules of Civil Procedure provides for sanctions for failure to obey the Scheduling Order. The Court will usually accept stipulations to modify the dates specified in this Order, but modifications of pretrial deadlines may also result in a modification of the trial date.

1 **3. Settlement Conference/Mediation.** The parties are encouraged to engage in
2 settlement negotiations as early as possible and should contact the Court if they
3 believe a settlement conference would be helpful.

4 **TRIAL DATES**

5 **4. Jury Trial.** The jury trial shall commence on **October 4, 2021**, at **9:00 a.m.** in
6 **SEATTLE**, Washington. Counsel estimates a trial length of ten to twelve days.

7 **5. Pretrial Conference.** An in-person pretrial conference will be held on
8 **September 23, 2021**, at **9:00 a.m.** in **SEATTLE**, Washington.

9 **DISCOVERY DEADLINES**

10 **6. Initial Disclosures.** The parties indicate that initial disclosures were exchanged
11 while the case was pending in the MDL.

12 **7. Expert Disclosures.** Reports of the parties' expert witnesses were served while
13 the case was pending in the MDL.

14 **8. Discovery.** Fact and expert discovery were completed in the MDL.

15 *A. Discovery Conferences.* To avoid wasted time and expense, Counsel may
16 contact chambers to schedule a telephonic conference to obtain an expedited ruling
17 on discovery disputes. Prior to the conference, each party may submit to the Court
18 a one-page summary explaining the discovery dispute.

19 **MOTION DEADLINES**

20 **9. Motions to Amend Pleadings.** Any motion to amend the pleadings shall be
21 filed and served by **April 7, 2021**.

22 **10. Daubert Motion Deadline.** The parties filed all *Daubert* motions, response and
23 replies while the case was pending in the MDL.

24 **11. Dispositive Motions Deadline.** The parties have filed all dispositive motions,
25 responses and replies, in the MDL and all remain pending.

26 **12. Motions in Limine.**

27 *A. Motions in Limine:* shall be filed and served on or before **September 6,**
28 **2021.**

1 B. *Responses*: shall be filed and served on or before **September 13, 2021**.

2 C. *Replies*: shall be filed and served on or before **September 20, 2021**.

3 D. *Notation*: Motions *in limine* shall be noted for hearing at the pretrial
4 conference.

5 TRIAL PREPARATION DEADLINES

6 13. Exhibit and Witness Lists.

7 A. *Exhibit Lists and Witness Lists*: shall be filed and served and exhibits
8 made available for inspection (or copies provided), on or before **August 30, 2021**.

9 B. *Identification*: The witness list shall include identification of each
10 witness's testimony.

11 C. *Notation of Exhibits*: Where feasible, all exhibits identified in depositions
12 shall be pre-marked with the exhibit numbers that will be used at trial. Plaintiff's
13 trial exhibits are to be numbered 1 through 199; Defendant's exhibits are to be
14 numbered 200 and following.

15 D. *Objections*: Objections to the opposing party's witness list or exhibit list
16 and any accompanying briefs shall be filed and served on or before **September 6,**
17 **2021**.

18 E. *Responses*: Responses, if any, to objections shall be filed and served on or
19 before **September 13, 2021**.

20 14. Pretrial Exhibit Stipulation.

21 A. *Stipulation*: The parties shall prepare a pretrial exhibit stipulation that
22 shall contain each party's numbered list of all trial exhibits with the opposing
23 party's objections to each exhibit, including the basis of the objection and the
24 offering party's brief response. All exhibits to which there is no objection shall be
25 deemed admitted, subject to any objections at trial that could not be raised in
26 advance.

27 B. *Deadline*: The pretrial exhibit stipulation shall be filed on **September 14,**
28 **2021**.

1 C. Objections to witness and exhibits shall be heard at the pretrial
2 conference.

3 **15. Designation of Testimony.**

4 The parties shall notify the Court on or before **August 20, 2021** whether
5 deposition testimony will be used at trial. The Court will then schedule a hearing to
6 review all designated testimony and objections so that a final edited version of the
7 deposition testimony can be prepared for trial.

8 **16. Pretrial Order.**

9 A. *Deadline:* A joint Pretrial Order, prepared in accordance with the format
10 provided in Local Rule 16.1(e), shall be filed on or before **September 22, 2021**
11 and a copy e-mailed in Word format to the Court at
12 bastianorders@waed.uscourts.gov.

13 B. *Consistency:* The list of exhibits contained in the joint Pretrial Order shall
14 reflect the exhibit marking scheme described above in paragraph 13(A).

15 C. *Duplicative Exhibits:* In preparing the joint Pretrial Order, the parties
16 shall confer regarding duplicate exhibits and determine which party will submit
17 such exhibits for trial.

18 **17. Trial Briefs and Proposed Voir Dire.** Trial briefs and voir dire shall be filed
19 by **September 29, 2021**.

20 **18. Jury Instructions.** No later than **September 29, 2021**, the parties shall file
21 jointly proposed jury instructions.

22 A. *Confer.* The parties shall confer regarding jury instructions and file
23 jointly proposed jury instructions and a table of proposed Jury Instructions. The
24 jointly proposed Jury Instructions should address only issues that are unique to this
25 case and shall include instructions regarding the elements of each claim, any
26 necessary definitions, and a proposed verdict form.

27 B. *Modifications.* If any proposed instruction is a modified version of model
28 instructions or deviate from model instructions, the parties shall identify the

modification and cite legal authority for the modification.

19. Submissions on the First Day of Trial. The Court requires that the following be submitted to the courtroom deputy clerk on the first day of trial:

A. *Exhibits.* Exhibits for presentation at the trial in tabbed binders indexed by exhibit number with exhibit tags placed consistently on the bottom right corner of each exhibit. Counsel shall submit to the Court an original binder and two copied binders of their exhibits together with three discs or flash drives containing the same.

B. *Exhibit List.* One copy of a final joint exhibit list.

C. *Witness List.* One copy of witness lists in the order in which the witnesses are expected to be called to testify.

MODIFICATIONS

20. Good Cause. Pursuant to Rule 16 of the Federal Rules of Civil Procedure, this schedule shall not be modified unless the Court finds good cause to grant leave for modifications.

SETTLEMENT CONFERENCE

21. Settlement Conference. A settlement conference shall be held no later than **June 20, 2021.**

IT IS SO ORDERED. The District Court Clerk is hereby directed to enter this Order and to provide copies to counsel.

DATED this 11th day of June 2020.



STANLEY A. BASTIAN
United States District Judge